

Express Mail Label No.: EV 151224932 US

Date of Deposit: August 12, 2002

Studien 262-KGB
Zi/D

#13

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : WILLIAM F. MAIER
SERIAL NO. : 09/254,525
FILED : March 8, 1999
FOR : USE OF MICROPOROUS INORGANIC MEMBRANE
CATALYSTS
ART UNIT : 1754
EXAMINER : S. Hendrickson

August 12, 2002

Hon. Commissioner of Patents
Washington, D.C. 20231

**PETITION UNDER 37 CFR § 1.181(a)
TO WITHDRAW HOLDING OF ABANDONMENT**

SIR:

The above-identified application is apparently held abandoned for failure to respond to the Final Rejection. The holding is in error as the Final Rejection was never received by Applicants. Therefore, Applicants respectfully request that the Commissioner exercise his authority and withdraw the holding of abandonment, remail the Final Rejection, and reset the period for response to restart with the remail date.

No fee is believed to be due for consideration of this petition. However, should the Commissioner determine that a fee is, in fact, due, he is hereby authorized to charge the fee deemed to be due to Deposit Account No. 14-1263.

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According to *Manual of Patent Examining Procedure (MPEP)* § 711.03(c)(II):

“The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner’s statement.”

In compliance with MPEP § 711.03(c)(II), the undersigned hereby confirms that:

- 1) The Final Rejection was not received in the offices of the undersigned; and
- 2) A search of the file jacket and docket records indicates that the Final Rejection was not received in the offices of the undersigned.

In support of the foregoing, there is attached as Exhibit 1 a copy of the docket card for our docket number Studien 262-KGB, which corresponds to the above-identified application. If the Final Rejection had been received in the offices of the undersigned, it would have been noted on the docket card. It should be clear from Exhibit 1 that the Final Rejection was not received in the offices of the undersigned.

According to the available information, the application was held abandoned for failure to respond to the Final Rejection dated August 10, 2001. Normally, such Final Rejection Office Actions would have recited a shortened statutory period for response of three months, which means that a response to the Final Rejection would have been due on November 10, 2001. Attached as Exhibit 2 is a copy of the docket report for that date. It should be clear that it does not show anything due for our docket number Studien 262-KGB, and, therefore, again, this proves that the Final Rejection was not received in the offices of the undersigned.

It may be that the Patent Office records have not been updated to include the current address of the undersigned, which is:

Kurt G. Briscoe
Norris McLaughlin & Marcus, P.A.
220 East 42nd Street
30th Floor
New York, New York 10017
Telephone: (212) 808-0700
Fax: (212) 808-0844
Email: kgbriscoe@nmmlaw.com

In case the Patent Office records have not been updated to include the current address of the undersigned, Applicants respectfully request that the Patent Office records be updated now.

In view of the foregoing, Applicants submit that they have established that the Final Rejection was not received in the offices of the undersigned, and, therefore, never received by Applicants. Therefore, Applicants respectfully request that the Commissioner exercise his authority and withdraw the holding of abandonment, remail

the Final Rejection, and reset the period for response to start with the remail date.

Early and favorable action is earnestly solicited.

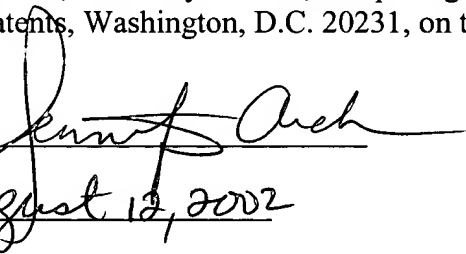
Respectfully submitted,
NORRIS McLAUGHLIN & MARCUS

By 
Kurt G. Briscoe
Reg. No. 33,141

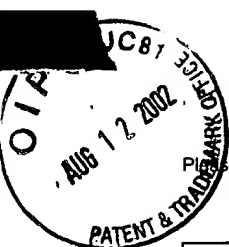
220 East 42nd Street
30th Floor
New York, New York 10017
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EXPRESS MAIL CERTIFICATE

I hereby certify that the foregoing petition and the indicated exhibits are being deposited with Express Mail, Next Day Service, in a postage prepaid envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on the date indicated below:

Signature of Depositor: 

Date of Deposit: August 12, 2002



9200/1754

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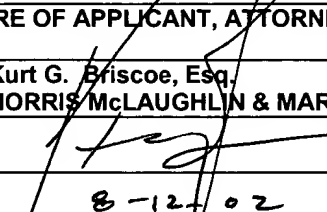
TRANSMITTAL FORM (To be used for all correspondence after initial filing)	Application Number	09/254,525
	Filing Date	March 8, 1999
	First Named Inventor	WILLIAM F. MAIER
	Group Art Unit	1754
	Examiner Name	S. Hendrickson
Total Number of Pages in This Submission	Attorney Docket Number	100716-23 / Studien 262-KGB

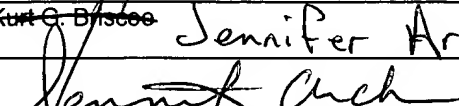
ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Extension of Time Request	<input checked="" type="checkbox"/> Petition to Withdraw Holding of Abandonment	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> To convert a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Additional Enclosure(s) -(please identify below):
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application	<input type="checkbox"/> Small Entity Statement	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Request for Refund	
Remarks:		

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Kurt G. Briscoe, Esq. NORRIS McLAUGHLIN & MARCUS, P.A.
Signature	 Reg. No. 33,141
Date	8-12-02

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service as express mail "Express Mail Label No. EV 151224932 US in an envelope addressed to : Hon. Commissioner of Patents, Washington, D.C. 20231 on this date:			
Typed or printed name	Kurt G. Briscoe Jennifer Archer		
Signature		Date	8-12-02

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Hon. Commissioner of Patents, Washington, DC 20231.